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PUBLIC UTILITY COMMISSION
FILING CLERK

February 24, 2021

Chairperson DeAnn T. Walker
Commissioner Arthur C. D'Andrea
Commissioner Shelly Botkin
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas 78701

RE: Docket 51812 – Young Energy Request for Emergency Action to Suspend Settlements and Execution of Invoices

Liberty Power LLC (“Liberty Power”) has reviewed the February 24, 2021 petition filed by Young Energy, LLC dba Payless Power (“Young”) requesting that the Public Utility Commission (“Commission”) order the Electric Reliability Council of Texas (“ERCOT”) to deviate from its protocol deadlines and timing related to settlements, collateral obligations, and invoice payments and to suspend the execution or issuance of invoices or settlements until issues are finalized by State leaders considering solutions to the financial challenges caused by the winter event. Liberty Power urges the Commission to expeditiously review and act on the Young petition and to additionally reverse its February 15, 2021 order which changed the market rules benefitting generators. Liberty Power further urges the Commission to provide such other and further relief as may be appropriate and necessary.

The Commission needs to take action immediately to address the crisis which was largely caused by a series of cascading events starting with the failure of Texas’ generators and natural gas pipeline owners and producers to properly winterize their systems despite recommendations to do so following the 2011 Polar Vortex event. Subsequently, the shortfall in generation resources forced ERCOT to curtail customer load resulting in lengthy blackouts. Thereafter, on February 15, 2021 the Commission enacted an order which changed the market rules, thereby providing generators with a financial windfall. The Commission’s order:

1. Forced real-time market prices upwards to the \$9,000/MWh price cap (the ORDC adder) by artificially increasing the customer demand values – despite ongoing blackouts,
2. Caused Day-Ahead market prices to consequently clear at or near the \$9,000/MWh price cap, and

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3. Increased the price paid to generators for reliability (ancillary) services to the \$9,000/MWh price cap.

On February 21, 2021, the Commission issued an “Order Directing ERCOT to Take Action and Granting Exception to ERCOT Protocols” (hereafter simply “Order”) which stated:

In an attempt to protect the overall integrity of the financial electric market in the ERCOT region, the Commission concludes it is necessary to authorize ERCOT to use its sole discretion in taking actions under the ERCOT Nodal Protocols to resolve financial obligations between a market participant and ERCOT. It is appropriate that ERCOT's discretion include, but not be limited to, ERCOT's ability to take the following actions:

- Deviate from protocol deadlines and timing related to settlements, collateral obligations, and invoice payments;
- Utilize available funds, such as undistributed congestion revenue right auction revenues, to cover short-paying invoice recipients;
- Relax credit requirements and releasing cash or other collateral to provide short-term market-participant liquidity;
- Deviate from protocol requirements regarding the maximum amount of default uplift invoices;
- Suspend breach notifications to certain market participants for failure to make payment or provide financial security; and
- Produce reconciliation settlements following market stabilization.

On February 22, 2021, ERCOT issued notice stating that it was “temporarily deviating from Protocol deadlines and timing related to settlements, collateral obligations, and Invoice payments while prices are under review. Invoices or settlements will not be executed until issues are finalized by State leaders considering solutions to the financial challenges caused by the winter event, which is anticipated to occur this week.” Subsequently, the very next day, on February 23, 2021, without providing the opportunity for public input from any market participants or any other interested stakeholders, including state officials, ERCOT issued a new notice saying that it “has ended its temporary deviation from protocol deadlines and timing related to settlements, collateral obligations, and invoice payments. Invoices and settlement will be executed in accordance with Protocol language.”

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ERCOT's February 22, 2021 protocol reversal could have long lasting implications for the market which could greatly impact customer choice and rates as suppliers leave the market. As lawmakers discuss solutions that can be alleviate the concerns, it is imperative that the Commission take immediate action and order ERCOT to deviate from its protocol deadlines and timing related to settlements, collateral obligations, and invoice payments and suspend the execution or issuance of invoices or settlements until issues are finalized by State leaders considering solutions to the financial challenges caused by the winter event. This is a logical first step to alleviate the current market concerns.

Thank you for your consideration.

Sincerely,

Stephen Gibelli

Stephen Gibelli

General Counsel for Liberty Power

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